

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 22.07.2015

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.5038 of 2015

and

M.P.Nos.1 to 3 of 2015

1. Mrs.Vedavalli Ramachandran
- 2 N.Ramesh Varman (Minor)
Rep. by his mother & Natural Guardian
Mrs.Vedavalli Ramachandran ...Petitioner

Versus

- 1 Union of India
Rep. by its Under Secretary / PV-I Ministry
of External Affairs CPV Division Patiala
House Annexe Tilak Marg New Delhi 110 001.
- 2 Regional Passport Officer
Ministry of External Affairs Tiruchirapalli
620 008.
- 3 Assistant Foreigners Regional
Passport Officer Bureau of Immigration
Chennai International Airport Meenambakkam
Chennai 600 027.
- 4 Union of India
Rep. by its Assistant Director Intelligence
Bureau Ministry of Home Affairs North
Block Central Secretariat
New Delhi 110 001. ...Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a writ of certiorarified mandamus, calling for the records of the respondents in connection with the proceedings of the 1st respondent bearing Ref. VI/405/2/1/2013-05 dt 30.6.2014 and consequent the proceedings of the 4th respondent bearing Ref. No. 4/lmm-1/2014(4)-4462 dt 10.7.2014 and quash the same and direct the respondents herein to forthwith return the Passports of the petitioners namely Passport

No. J 8396473 in the case of 1st petitioner and Passport No.K 2721781 in the case of 2nd petitioner and further not prevent their travel to United States of America on the basis of the T-visas they hold award cost.

For Petitioner : Mr.V.Prakash, Sr. Counsel
for Mr.K.Sudalai Kannu

For Respondents : Mr.V.T.Balaji
Central Govt. Sr. Panel Counsel

O R D E R

By consent, the writ petition is taken up for final disposal.

2. In the affidavit filed in support of this writ petition, it is averred among other things that the 1st petitioner is the mother and natural guardian of the 2nd petitioner, who is 15 years old and her husband viz. M.Ramachandran, is a Diploma Holder in Electronics & Communication and he was issued with a passport bearing No.H6676605. The husband of the 1st petitioner had originally gone to United States of America (USA) on H2B Visa in the year 2006 and was found to be a victim of Human Trafficking and therefore, under the Trafficking Victim Protection Act (US Legislation), he was issued T-1 Visa with Permanent Resident Status in the said country and according to the 1st petitioner, he would be granted full immigration status viz., Green Card on an application. The 2nd petitioner herein has finished his Board Examination and both the petitioners want to travel to USA to join with Mr.M.Ramachandran, permanently and when they were about to board Flight NO.QR 529 at International Airport, Chennai on 21.08.2014, their passports were seized by the 3rd respondent, who issued a Certificate for impounding the passport, as per the directions of the 1st respondent dated 30.06.2014 and consequent memorandum of the 4th respondent dated 10.07.2014. As per the above said proceedings, Indian Passport Holders, who are caught in the Human Trafficking (T Visa - T-1, T-2, T-3 and T-4 affixed on their passports) are to be prevented from leaving the country. The petitioners challenging the legality of the said order had filed this writ petition.

3. Mr.V.Prakash, learned senior counsel appearing for the petitioners would submit that originally, there was a policy decision not to allow persons with T-Visas to leave the country and thereafter, on the basis of various representations received, the 1st respondent has revisited the policy and it has been decided that a bonafide certificate in respect of such Indians settled in USA and their family members (residing in India or USA) should be issued by the concerned Indian Consulate / Mission in USA with the approval of HOM / HOP and on production of the same along with the

T-Visa holding passport at the immigration posts in India, they would be able to travel to and fro from USA to India or vice-versa and the revised instructions were also sent to the Bureau of Immigration of India.

4. The said instructions found in the e-gram bearing No.405/2/1/2013-05 dated 16.03.2015 was signed by Mr.Muktesh K.Pardeshi, Joint Secretary (PSP) & CPO and the 1st respondent has also issued necessary instructions on 15.05.2015 to Indian Consulates at Atlanta, Chicago Houston, New York and San Francisco, that T-Visa holder Indian (who had been duped into the US by the Indian placement agencies / US employment agencies) as the victim of human trafficking, whose stay in the US, has been subsequently regularized by the US Government by way of issuing T-Visa to him and his family members and once such an applicant furnishes the requisite Court order or the letter / declaration of the concerned authorities of the US Government, his case may be considered for issuance of bonafide certificate to him and his family members as suggested vide Ministry's E-gram of even no. dated 16.03.2015.

5. The attention of this Court was also drawn to the communications dated 03.07.2015 sent by Consul General of India, Houston, bearing No.HOU/Cons/405/27/2015 (T), wherein it has been stated among other things that Mr.Ramachandran Murugaiyan (husband of the 1st petitioner and father of the 2nd petitioner), holder of Indian Passport NO.H6676605, issued at Houston on 31.03.2010 and valid up to 30.03.2020 has entered the United States on the basis of fraud, forgery and foul play committed by the US Company M/s. Signal International and their Indian Contractor M/s.Dewan Consultants Pvt. Ltd., and that the Government of United States of America has deemed the 2nd petitioner as well as the 1st petitioner, who are the holders of Indian Passports bearing Nos.K2721781 and J8396473, respectively, issued at Trichy on 08.02.2013 and 05.06.2012, and valid up to 24.05.2017 and 04.06.2022 are dependent family members of Mr.Ramachandran Murugaiyan, who is the victim of human trafficking and was granted 'T' non immigrant status under the "Victims of Trafficking and Violence Protection Act (VTVPA)" [USA Act] and therefore, the above said Consulate has requested all the concerned to allow the bearer of the above mentioned passports to pass freely without let or hindrance and to afford every assistant and protection of which, he or she may stand in need.

6. It is the submission of the learned senior counsel appearing for the petitioners that in the light of the communications dated 03.07.2015, sent by the Consulate General of India, Houston, to whom it may concern, there may not be any impediment on the part of the respondents 2 and 3 to allow the petitioners to go to USA to join Mr.M.Ramachandran and prays for appropriate orders.

7. Per contra, Mr.V.T.Balaji, learned Central Government Senior Panel Counsel, who appears for the respondents, would submit that the petitioners may approach the 2nd respondent with their passports as well as the communications dated 03.07.2015 issued by the Consul General of India, Houston and he may be directed to consider the same and pass orders within a stipulated time, subject to the genuineness and authenticity of the said communications and subject to fulfillment of other norms.

8. This Court, in the light of above facts and circumstances permits the petitioners to approach the 2nd respondent with their passports as well as the communications dated 03.07.2015, issued by the Consulate General of India, Houston, within a period of one week from the date of receipt of a copy of this order, for appropriate relief and the 2nd respondent shall afford an opportunity of hearing to the petitioners and subject to genuineness and authenticity of the above said communications and in accordance, with relevant norms and regulations, shall consider the request of the petitioners and pass orders, in accordance with law, within a period of two weeks, thereafter and communicate the decision taken, to the petitioners.

9. The writ petition is disposed of, accordingly. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To

- 1 Under Secretary / PV-I
Union of India
Ministry of External Affairs CPV Division Patiala
House Annexe Tilak Marg New Delhi 110 001.
- 2 Regional Passport Officer
Ministry of External Affairs Tiruchirapalli
620 008.

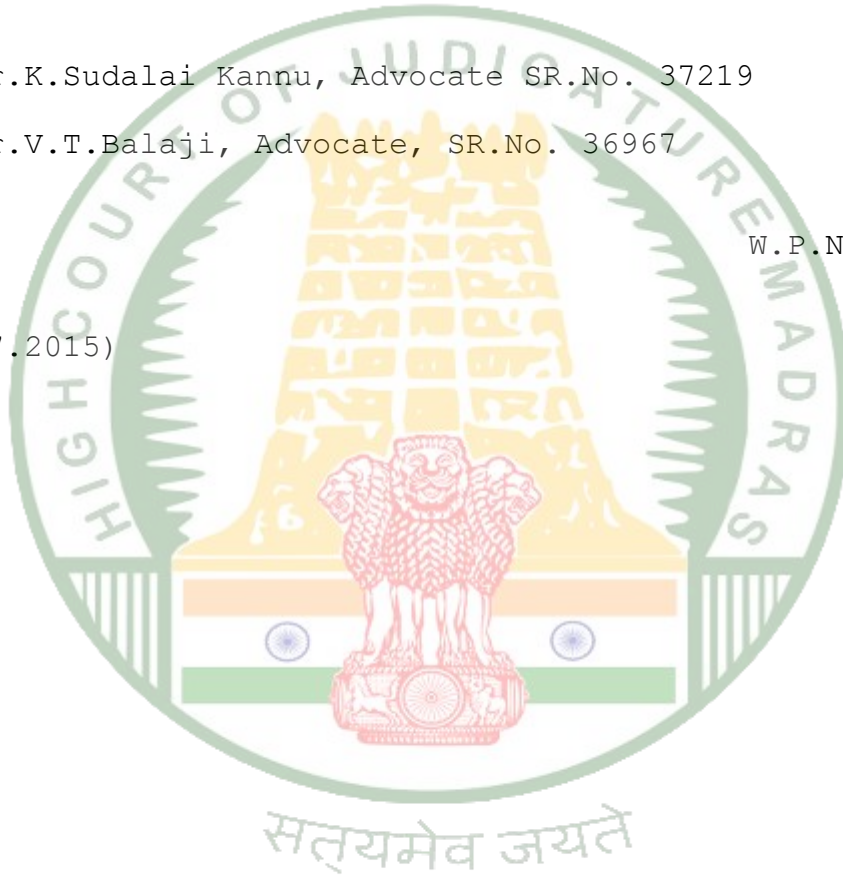
- 3 Assistant Foreigners Regional
Passport Officer Bureau of Immigration
Chennai International Airport Meenambakkam
Chennai 600 027.
- 4 The Assistant Director
Union of India
Intelligence Bureau Ministry of Home Affairs North
Block Central Secretariat
New Delhi 110 001.

1 CC to Mr.K.Sudalai Kannu, Advocate SR.No. 37219

1 CC to Mr.V.T.Balaji, Advocate, SR.No. 36967

W.P.No.5038 of 2015

GJ (CO)
PSI (24.07.2015)



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